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N. 14

O F

*Samuel Goodere, Esq; Matthew Mahony, and
Charles White,*

A T T H E

C I T Y of B R I S T O L,

On THURSDAY the 26th, and FRIDAY the 27th of March, 1741.

F O R T H E

M U R D E R

O F

Sir JOHN DINELY GOODERE, Bart.

On Board the R U B Y Man of War, in *King-Road,*
Bristol.

L O N D O N:

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КОМПАНИИ АУДИТОРСКОЙ

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T H E

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O F

*Samuel Goodere, Esq; Matthew Mahony and
Charles White, &c.*

BEFORE the Right Worshipful *Henry Combe, Esq;* Mayor of *Bristol*, and the Worshipful *Michael Foster, Esq;* Serjeant at Law, Recorder of the said City.

On Thursday the 26th of March, about Ten o'Clock in the Forenoon, *Samuel Goodere, Esq;* and *Matthew Mahony* were brought to the Bar.

Counsel for the Pris. May it please your Worship, I am Counsel for the unhappy Prisoners at the Bar, and as Mr. *Goodere* has been for a long Time, and is still in a very bad State of Health, and is now under a Course of Physic for the Recovery of his Health, so that he has not had, by Reason of his continual Indisposition during his Imprisonment, sufficient Time and Opportunity to prepare for his Trial ; I therefore humbly hope the Court will grant him further Time for the Recovery of his Health, and to prepare himself for his Trial, by putting it off till the next Assizes.

Court. Mr. *Goodere* has had sufficient Time to prepare for his Trial : And he has been indulged already in Regard to his Health.

Clerk of the Arraignments. *Samuel Goodere* and *Matthew Mahony*, you the Prisoners at the Bar, hearken to what is said to you ; those good Men that are now called, and do here appear, are those that are to pass between our Sovereign Lord the King and you, upon your several Lives or Deaths ; if therefore, you, or either of you will chal-

lenge them, or any of them, you must challenge them as they come to the Book to be sworn, before they are sworn, and you shall be heard.

Cryer. O yes, O yes, if any of you can inform my Lords, the King's Justices, the King's Serjeant, the King's Attorney, before this Inquest be taken between our Sovereign Lord the King and the Prisoners at the Bar, of any Treason, Murder, Felony, or other Misdemeanour, committed by the Prisoners at the Bar, or either of them, come forth and you shall be heard, for the Prisoners at the Bar now stand upon their Deliverance, and all Persons bound by Recognizance to prosecute them, or either of them, come forth and prosecute, or you'll forfeit your Recognizances.

J U R O R S.

*Charles Bromadge,
Richard Broadribb,
Joseph Merryweather,
Henry Scott,
John Lilly,
James Jones,*

*Stephen Perks,
Thomas Gregory,
Nicholas Wimbell,
Robert King,
David Simmes,
Edward Rich.*

Clerk of the Arraigns. *Samuel Goodere*, otherwise Captain *Samuel Goodere*, you stand indicted by the Name of *Samuel Goodere*, late Commander of His Majesty's Ship the *Ruby* ; for that you not having the Fear of God before your Eyes, &c. on the Twenty-fourth Day of *January*, in the Year

Year of Our Lord, One Thousand Seven Hundred and Forty, and in the Fourteenth Year of the Reign of Our Sovereign Lord G E O R G E the Second, of Great-Britain, France, and Ireland, King, Defender of the Faith, &c. with Force and Arms, against the Peace of our Sovereign Lord the King, feloniously, wickedly, willfully, and of Malice afore-thought, did hire divers Russians, Natives of the Kingdom of Ireland, with a wicked and barbarous Intent, and by your Command and Direction, you aiding, assisting and abetting, aboard the Ruby Man of War, then lying in King-Road, within the Liberty of the City and County of Bristol, in and upon the Body of your own Brother, Sir John Dinely Goodere, Bart. of Charlton, in the County of Worcester, in the Peace of God, and Our Sovereign Lord the King, then and there being, and in Conjunction with such Russians of the Kingdom of Ireland, and Matthew Mabony, wilfully, wickedly, feloniously, and of Malice aforethought, did make an Assault, and you Samuel Goodere, otherwise Captain Goodere, in Company with Matthew Mabony, Charles White, and others, did with both your Hands, and with certain Cloths choak and strangle by the Neck, Throat and Mouth, the said Sir John Dinely Goodere, Bart. your own Brother, then and there feloniously, wilfully, wickedly, and of Malice afore-thought, you the said Samuel Goodere, did murder the said Sir John Dinely Goodere, Bart. Of which barbarous and inhuman Usage, the said Sir John Dinely Goodere instantly died. And so the Jurors for our Lord the King, upon their Oaths do say, that you the said Samuel Goodere, the aforesaid Sir John Dinely Goodere, Bart. your Brother, feloniously, wilfully, wickedly, and of Malice aforethought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

How sayest thou Samuel Goodere, art thou guilty of the Felony whereof you stand'st indicted, or not guilty?

Prisoner. Not guilty.

C. of the Ar. Culprit; How wilt thou be try'd?

Prisoner. By God and my Country.

C. of the Ar. God send thee a good Deliverance.

How say'st thou Matthew Mabony, art thou guilty of the Felony whereof you stand'st indicted or not guilty?

Prisoner. Not guilty.

C. of the Ar. Culprit; How wilt thou be try'd?

Prisoner. By God and my Country.

C. of the Ar. God send thee a good Deliverance.

Prisoners. We humbly desire to have Pen, Ink and Paper.

Court. Yes, by all Means.

Counsel. May it please your Lordship and you Gentlemen of the Jury.—

Goodere. My Lord, I desire that I may have Counsel.

Court. In Points of Law you shall have Counsel assigned you; but in Matters of Fact that cannot be granted.

Goodere. My Lord, I desire that your Lordship and the Court would be of Counsel for me, because, my Lord, I am unacquainted with the Law.

Court. We will take Care that no Advantage shall be taken of your Ignorance in the Law.

Goodere. I desire to be indulged a few Words that your Lordship will —

Counsel. Look you, Mr. Goodere, because you must observe the common and usual Methods of Trial in your Case, as well as others, I must interrupt you now, you shall be fully heard when it comes to your Turn to make your Defence, but any thing you now say before-hand is altogether irregular and improper, you, it may be, are ignorant of the Forms of Law, therefore I would inform you; you are first to hear what your Accusation is, you may ask any Question of the Witnesses that you will, after the King's Counsel have examined them as they go along, and when all their Testimony is deliver'd, you will be heard to make your Defence, and have full Scope and Liberty to enlarge upon it as long as you can, it is a Business that concerns you in Point of Life and Death; all that you have or can value in the World lies at Stake; And God forbid that you should be hindered by me, either in Time or any Thing else, whereby you may defend yourself, but at present it is not your Turn to speak, for the Forms of Law require your Accusers to be heard, and it is absolutely requisite that the usual Forms and Methods of Law be inviolably observ'd, and be sure it does the Prisoner no Injury that the Law is kept so strictly to, and the Charity as well as Justice that it becomes a Court, and is not below them to have for Persons in your Condition, and they are obliged to take Care that you suffer no Detriment or Injury by any illegal or irregular Proceedings, for tho' they set here as Judges over you by Authority from the King, yet they are accountable not only to him, but to the King of Kings, the Great Judge of Heaven and Earth, and therefore are obliged both by their Oaths, and upon their Consciences, to do you Justice, and by the Grace of God they will do it, you may depend upon it, and

and as to what you say concerning yourself, I pray God with all my Heart that you may be innocent.

Couns. for the King. Mr. Recorder, and you Gentlemen of the Jury, I am Counsel on the Side of the Prosecution, and, Gentlemen, Murder, at all Times, and in all Nations, hath been accounted a Crime of the blackest Dye; how much more then is it aggravated when it is swelled up to Fratricide; what Horror must the Prisoner endure, who, as we shall be able immediately to prove, hath harden'd himself to commit so impious a Deed, as to murder his own Brother. And tho' the present Age swarms with impious and perfidious Examples, yet the Prisoner *Goodere* must be acknowledged to be a Criminal of the First Rate. When a Brother rises up against a Brother, and murders him in Cold Blood, the very Thought is so shocking that Nature itself is hardly able to support it: How hardened, how insensible must the Conscience of the Prisoner *Goodere*, be, that could be quite deaf to the lamentable and passionare Cries of his Brother, struggling with two bloody mercenary Villains, who were then striving to take away his Life! The Prisoner must, Gentlemen, in my Opinion, have taken some Pains to fortify himself against all the Tendernesses of Nature, who could hear his Brother calling to him in the very Agonies of Death for Help and Assistance, without a Word of Answer, much less of Relief. Yet this was the Case the Prisoner at the Bar to gratify a Revenge he had conceived against his Brother for some Prejudice he thought Sir *John* had done him in settling his Estate, would have no other Satisfaction of him but his Death, and utter Destruction of his Brother. Gentlemen, It must be observed that for some time past Sir *John Dinely Goodere*, and his Brother Capt. *Samuel Goodere*, had been at Variance; the Occasion of which was a Report that Sir *John* had cut off the Entail of his Estate, except 600*l. per Annum*, which he could not meddle with, in order to settle it on his Sister's Sons. What Quarrels and Contentions past between the Two Brothers on this Occasion, so as to raise such a Spirit of inveterate Hatred in the Captain, does not yet appear; but so it happened, that on Saturday, Jan. 24, the City of *Bristol* was alarmed by the Outcry of a Murder, committed by *Samuel Goodere*, Esq; Commander of the Ruby Man of War, on the Body of his own Brother, Sir *John Dinely Goodere*, Bart. of *Charlton*, the Seat of that Family near *Evesham* in *Worcestershire*, a Gentleman of an Estate of 3000*l. per Annum*, and both Sons of the late Sir *John Goodere*, of *Burghope*, in *Herefordshire*, Bart.

Counsel. May it please your Lordships, and you Gentlemen of the Jury, I am Counsel *pro hac Vice* for the King, against the Prisoners at the Bar; for his Majesty, as the Father of his People, and for their Safety, know that Justice is one of the Pillars that supports a Throne, and out of his inherent Goodnes and Love to Justice, will have a strict Account taken of the Blood of any of his Subjects, without respect to the Quality of the Slain or the Person who stands charged with his Death, and therefore he hath been graciously pleased, particularly, to regard this Prosecution, for so horrid and bloody an Assassination, and tho', Gentlemen, it is difficult to stand in this Place without the greatest Tenderness to our Fellow-Creatures, yet they who have divested themselves of all Humanity now cease to be such, 'tis even Cruelty to the King's People not to stand up against them, so far as is consistent with Law and Justice, their Prosecution is become the common Concern of Mankind, for so long as these Prisoners have a Being here, the Life of every Man is precarious, and but at the Will of so infernal a Contriver as the one, and so hellish an Executioner as the others.

Gentlemen, no Man can declare his Opinion just as he lists, and therefore a Determination or Judgement at Will and Pleasure, will never be thought to deserve the Name of a Verdict; for whatever may be pretended, the World will not be persuaded that a Jury hath pursued the Dictates of Conscience, unless some reasonable Grounds for its Proceedings shall appear, and therefore whenever it shall happen that notorious Malefactors escape unpunished, at a Time that in the Opinion of most good Men, there was full and sufficient Evidence for their Conviction, the World wôld think very strange of the Verdict; for, Gentlemen, you are sworn to try this Issue according to the Evidence given, and though Mercy and Compassion are implanted in Mankind, yet the Preservation of Society makes it necessary to punish the Wicked, and Mercy to Men who have committed such vile Facts would be Cruelty in the highest Degree to the rest of his Majesty's Subjects, and it will lye on you.

My Lord, for that Purpose to lead to the Fact it will be necessary to inform you, that on the Sunday before this horrid Tragedy happen'd, Sir *John Dinely* had an Appointment to dine with one Mr. *Smith*, an Attorney at Law in this City, when Captain *Goodere*, one of the Gentlemen at the Bar, came to this City, and to carry on his wicked Intent, forecasted to dine near at Hand, and after Dinner interceded with Mr. *Smith* to admit him into Company with the Deceas'd, in order, as he pretended,

pretended, to accommodate some Family Differences in an amicable Manner; that Gentleman who always shewed an Inclination rather to heal and make up Family Differences, than to widen them, gladly laid hold on the Opportunity to effect the good Design and introduced the Prisoner, Mr. *Goodere*, to the Deceased, and Gentlemen, so subtly did the Prisoner act his Part, that after some Discourse they seemingly appear'd as good Friends as ever, for just as the Baronet was about to go, the Prisoner took his Leave of his Brother in the most friendly and affectionate Manner.

The deceased Gentleman having finish'd his Visit to Mr. *Smith*, departed without any Suspicion of any Evil that might arrive to him, and as he was going to his Apartment, he was seiz'd by the other Prisoners, who were hired by Mr. *Goodere* to be ready at Hand, and on the Captain's giving the Word of Command to seize the Deceased, they hurried him along the Streets to the Water Side, where was a Boat prepared to receive him. We shall prove, Gentlemen, by other Witnesses how the Deceased cried out Murder several Times, when the Prisoner, *Goodere*, stopped his Mouth with his Cloak, and to divert his Majesty's Subjects from interposing in this Scene of Iniquity, the Captain told the People that the Deceased was a Thief and a Deserter, and had made his Escape from the Ship, and that they were going to carry him on board the Man of War to secure him in order for his Trial.

We shall likewise prove, Gentlemen, that after they had thus violently got him into the Boat, the Deceased said to the Prisoner *Goodere*: *Brother, I know you have a Design to murder me, I beg that if you are resolv'd to do it, that you will do it here, and not give yourself the Trouble of carrying me down to your Ship*: When the Prisoner reply'd, *No Brother, I am going to prevent your rotting on Land, but however, would have you make your Peace with God this Night*. We have likewise, Gentlemen, Witnesses that will prove, when the Captain came on Board, to prevent the Ship's Crew from doing any thing that should obstruct his putting in Execution this premeditated Scheme, he told the Ship's Company that he was mad, and that he brought him on Board to prevent him from destroying himself, and ordered them not to mind what the Deceased said. We shall likewise set forth in the Course of our Evidence in what Manner the Prisoners conveyed the Deceased into a private Place in the Ship, where they kept him, until they committed the horrid Fact for which they are indicted. We shall also, Gentlemen, shew how Captain *Goodere*, the Prisoner at the Bar, stood Centry at the Door with a drawn

Sword in one Hand, and a Pistol in another, to oppose the first Person, who should offer to prevent their finishing this Tragedy.

We shall prove by *Mabony* and *White's* Confession, and other incontestable Evidences, the Manner they took one of the Deceased's Handkerchiefs, and put it about his Neck, and then pull'd it as hard as they could, in order to strangle the Baronet, whilst the unfortunate Gentleman whom they were murdering, cried out, *Murder, Murder, for Chriſt's Sake, Brother; don't kill me, but save my Life, dear Brother, Help, help, help; Murder*. We shall further shew that these Blood-thirsty Wretches, void of all Humanity and Compassion, the better to perpetrate their nefarious Project, slipped off the Handkerchief, and put a Cord about his Neck, which had a Noose, and then pull'd the Cord until the unfortunate Baronet was deprived of Life, after he had struggled about 40 Minutes, in which Time he lost abundance of Blood, that issued from his Mouth and Nose, 'till at last, that unfortunate Gentleman became a Sacrifice to the cruel Vengeance of a Blood-thirsty Brother, by the Hands of two inhuman Wretches.

We shall be able, thank God, to prove by other Witnesses, the Manner how this Murder was discovered by the Cooper of the Ship, and his Wife, who, through a Crevice, saw part of this horrid Scene. We shall prove, Gentlemen, that when the Prisoners, *Mabony* and *White*, were seized, they had in their Possession several Things belonging to the Deceased, which are the strongest corroborating Circumstances, to prove them guilty of this Indictment, which is for the most horrid, vile, barbarous and deliberate Murder, that any Man has heard of, and which, I think, any thing in History cannot parallel.

My Lord, we will call our Witnesses, and prove all these Facts that I have mention'd to your Lordship, and then I hope the Prisoners will be put to give you some Account how these Matters happen'd.

Couns. My Lord, with your Lordship's Indulgence, I will, for the Information of the Gentlemen of the Jury, explain to them the Nature of the Statute and Common Law, concerning the different Sorts of Murder. Gentlemen, in the first Place, I will observe to you, that Murder committed upon another, is when a Man or Woman of sound Mind and Memory, and of the Age of Discretion, unlawfully killeth any reasonable Creature in being, under the King's Protection, within any County, of Malice aforethought, either express'd or implied, so as the Party wounded, or hurt, dieth of the Wound or Hurt, within a Year and a Day.

The

The Murder may be done by Weapon, as Sword, Staff, &c. or by Poison, Crushing, Wounding, Stabbing, Bruising, Smothering, Suffocating, Strangling, Drowning, Burning, Famishing, Throwing down, Inciting a Dog, Bear, or other Beast, to bite or hurt, whereby Death ensueth; or it may be done by laying a sick Man in the open Air, against his Will, by Reason whereof he dieth; and such was the Case of him who carried his sick Father against his Will in the frosty Season, from one Town to another, by reason whereof he died. *Crom.* 24, tho' at the same Time I will tell you, Gentlemen, that the Law says, if the Person that commits the Murder is under Age, of Discretion, or *Nan Compos Mantis*, such cannot be guilty of Murder; yet if it appears that the Infant did hide the Body, it is Felony; *malitia supplet atatem*; because that indicates his Sense of Guilt; or if one drunk kills another, it is Murder; for his ineptitude or immoral Living, will rather aggravate than extenuate the Crime; and likewise if a Person excites a Madman to kill another, he is guilty of Murder. The Killing, Gentlemen, must be some reasonable Creature, Man or Woman, Subject or Alien, Christian or Heathen, tho' he be attainted of High-Treason, Felony, *Præmunire*, or not; and the reasonable Creature killed must be born alive, except in the Case of a Bastard-Child, because there the Intent of the Mother to conceal the Child, makes it to be thought Murder; or by giving a Potion to, or striking a Woman big with Child, so that it causes an Abortion, as you may see by the 22 *Jac. I.* Also one who wilfully neglects to prevent a Mischief, which he may and ought to provide against, in the Judgment of the Law, is the actual Cause of the Murder which ensues, as if a Man hath an Ox, Horse, Dog or Bear, which he knows to be Mischievous, by being used to gore, kick or bite them that come near him, and he do not tie them up, but leave them at their Liberty, and they afterwards kill a Man, the Owner may be indicted. And before an Indictment can be found to be tried at the Assizes, it will be necessary to set forth, that the Murder was committed within some County. For if it is done out of the Realm, it cannot be determined by the Common Law, but must be tried by the Court of the Constable, or Marshal of the Admiralty-Court, and the Court by Commission, according to the Provision wisely made by an Act of Parliament, in the 28th Year of the Reign of *Henry VIII*.

It is not deemed Murder by our Laws, without it be done with a Malice, afore-thought; for Ma-

lice is a formed Design of doing Mischief to another, so that Hatred and Malice differ. He that doth a cruel and voluntary Act, whereby Death ensueth, doth it of Malice prepens'd, and afore-thought in the Esteem of the Law, tho' he doth it of a sudden; therefore Malice is express'd or implied by the Law.

Express Malice, Gentlemen, is when the Killing is with Malice prepens'd or afore-thought, with a sedate Mind, and formed Design, to Wound, Poison, or to do some personal Injury to him that is kill'd, the Malice continuing until the mortal Wound or Hurt is giving: This Malice may be in the Principal that doth the Act, or in the Principal aiding and abetting others to do it, and in the Accessary before the Fact was committed; as when a Person in cold Blood, maliciously, unlawfully, and deliberately beats another, or doth other corporal Damage in such a Manner that he afterwards dieth thereof, he is guilty of Murder, by express Malice, tho' he did not design to kill him; but if he beats him only in such manner, that it appears he only meant to chaffise him, it is Manslaughter only. If one executes his Revenge upon a sudden Provocation in such a cruel Manner, with a dangerous Weapon, as shews a malicious and deliberate Intent to do Mischief, and Death ensues, it is express Malice, from the Nature of the Fact, and Murder.

And, Gentlemen, I must tell you, that if two or more come together, to do an unlawful Act, as the Prisoners at the Bar have done, to assault or beat a Man, to commit a Riot, to rob a Park or Orchard, and one of them kills a Man, this is Murder in all, of that Party that were present, aiding or assisting, or that were ready to aid and assist, tho' but a Looker-on, which is near the present Case; but it is otherwise of them that came by Chance; for it is certain that were the principal Intent was to commit another Felony, or any other unlawful Act, and a Killing happens in pursuance of that unlawful Purpose, all are guilty of Murder, for all will be said to intend the Murder; and such Persons are said to be present that are in the same House, tho' in another Room, or in the same Park, if at half a Mile's Distance, or out of View, which I apprehend to be near the present Case, and which, Gentlemen, is what I have to offer on the Subject of Murder, and what was proper for your own Consideration, if you are satisfied from the Evidence that we shall produce, that the forcibly carrying away Sir *John Dinely Goodere* on board the *Ruby* Man of War, was an illegal Act, you will then consider that every Per-

son who was concerned in that Act, where Principals in the Murder of that unfortunate Gentleman ; and you will find them guilty accordingly.

Call Mr. Smith, Attorney at Law.

Court. Mr. Smith, where do you live ?

Smith. On College-Green. The Sunday before this Murder was committed, the Deceased by my Invitation was to dine at my House, the Saturday following, of which the Prisoner being apprized, came into the Neighbourhood, and sent for me, and earnestly interceded with me, to admit him, the Prisoner, into the Company of his Brother, the Deceased, under Pretence, as the Prisoner said, to accommodate and reconcile their Differences in an amicable Manner.

Court. Where was the Prisoner when he sent for you ? Did you go to him ?

Smith. He was at College-Green Coffee-House, and I went to him, and I was so pleas'd with the Proposal of the Prisoner, and the Hopes of their Accommodation, that without the least Hesitation I immediately introduced the Prisoner into the Company of his Brother the Deceased : And in such a Manner did the Prisoner behave, that seemingly the Deceased and he were as good Friends as ever ; and just as the Deceased was about to go, the Prisoner took his Leave of the Deceased in the most friendly and affectionate Manner imaginable.

Court. What Time of the Day was it that the Deceased went from your House ?

Smith. It was dark, and I believe it might be near Six o'Clock in the Evening.

Mr. Roberts. I keep the White Hart on College-Green, opposite to Mr. Smith's. The Prisoner came to my House early in the Morning, the Day before the Murder was committed, and ordered me to get a Dinner ready for six Men, who were to dine there that Day.

Court. Was the Prisoner Mahony one of those six Men that din'd at your House that Day ?

Roberts. No : I do not think him one of the Six, but they at Dinner, before and after, talk'd of one Mahony, but he was not there, nor did I see him that Day.

Court. Did you ever see Mahony before that Time ?

Roberts. Mahony has been often at my House, before the Murder of the Deceased, and I know him as to his Person very well, but I have no intimate Acquaintance with him.

Court. After the six Men had din'd, what follow'd ? Do you know the Names of all, or any one of them ? Did you ever see all or any of them before ?

Roberts. I do not know their Names, nor did I ever see them before, as I remember ; but they were dress'd as Seamen, and I took them to be Captain Goodere's Men, and that he was minded to give them an Entertainment at my House, not in the least did I suspect the Errand they were come upon. They dined in the Balcony of my Room up one Pair of Stairs towards the Green ; and in the Afternoon, after Dinner was over, Goodere sent me Word, that I must make Tea for the Six Men, which much surpriz'd me, it being very uncommon Drink for Jack Tars.

Court. What Time was it when the Six Men went from your House ?

Roberts. They went of a sudden, and in some Haste, altogether ; and it was about Six o'Clock in the Evening, as I well remember.

Court. Did you follow them ?

Roberts. No : I took Leave of them as they came down Stairs, and bid them Welcome.

Another Witness sworn.

Counsel. Pray acquaint my Lord and the Jury, what you know relating to the Murder of Sir John Dinely.

Witness. My Lord I was passing along College-Green, and I saw Six Men hurrying the Deceased along towards the Hot-well, when the Deceased as he was carried along, cried out Murder ! Murder ! I am Sir John Dinely Goodere, and the Prisoner stopp'd his Mouth with his Cloak, upon which some People who did not know his Name, asked what was the Matter, when Mr. Goodere, the Prisoner at the Bar, said, it was only a Thief and a Deserter, and that they were going to carry him on Board the King's Ship to try him. And, my Lord, not knowing what might be the Consequence of interposing in Matters of this Nature, having lately seen the sad Effects of opposing the Authority of a Press Gang, I went home and thought no more of the Matter, 'till the Monday Night, when there was a Report of the Murder ; and therefore next Day, I went before the worshipful Mayor and Aldermen, and discovered what I knew of this Transaction, in the same Manner as I have to your Lordship.

Court. Would the Prisoners ask this Witness any Questions ?

Prif. No, my Lord.

A Sailor Sworn.

Sailor. May it please your Honour, my Lord, I was ordered to watch in the Boat, whilst our noble Captain and the other Boat's Crew were on Shore, and about Six o'Clock on Saturday, the 24th of January last, our Boat's Crew brought the Deceased

ceas'd into the Boat, among whom was our Captain Matt. Mathony, and Charley White.

Counsel. Pray what passed there between the Prisoners and the Deceased?

Sailor. Nothing as I know of, an' please your Worship.

Counsel. Was there no Dialogue between the two Brothers?

Sailor. Dialogue!

Counsel. Ay, Dialogue!

Sailor. If you call it a Dialogue, it was a very odd one, such as I had never heard between two Brothers.

Counsel. Tell the Court what you heard them say to each other.

Sailor. An please your Honour, Sir John Dinely said to our noble Captain: *Brother, I know you have an Intention to murder me; I beg that if you are resolv'd to do it, that you would do it here, and not give yourself the Trouble of taking me down to your Ship.*

Counsel. Pray did not your noble Captain, as you call him, say any thing?

Sailor. Yes, Captain Goodere, said to Sir John Dinely: *Brother, I am going to prevent your rotting upon Land; but however, Brother, I would have you make your Peace with God this Night.*

Counsel. Do you know any thing more?

Sailor. I don't remember any more, only that when we came along-side our Ship, the Sailors helpt the Deceased on Board, and it was my Station to stay behind and stow the Boat.

Court. Prifoners, would ask this Witness any Questions?

Prij. No, my Lord.

The Master of the Ship Sworn.

Counsel. Sir, if my Instructions are right, you are Master of his Majesty's Ship the Ruby Man of War?

Master. Yes, Sir, instead of a better.

Counsel. Then pray, Sir, I desire that you will be so good as to give the Court an Account of what you know relating to the unhappy Death of Sir John Dinely Goodere?

Master. My Lord on Saturday the 24th Day of January —

Counsel. Sir, I must crave the Favour, that you will raise your Voice, so that the Jury may hear what you say.

Master. My Lord, on Saturday the 24th Day of Jan: last, about Six o'Clock in the Evening, my Servant came into my Cabbin, and told me, the Captain was in the Boat, which was near the Ship, and accordingly I went on the Quarter Deck

in order to receive the Captain, whom I am heartily sorry to see here in the Shape that he appears, orders some Hands into the Boat, to help his Brother on Board; accordingly the Boatswain pip'd and ordered all Hands upon Deck, and some of the briskest Hands stept into the Pinnace, and in a Manner hoisted the Deceased into the Ship; when he cried out that his Brother was going to murder him, and the Captain told me, *not to mind him nor his Noise, because he was mad, and that he had brought him aboard, on Purpose to prevent his making himself away;* and then the Deceased was convey'd away into the Captain's Cabin, which is all that I know of the Matter.

Counsel. Pray, Sir, do you know any thing of the Murder?

Master. No, until it was discovered by the Cooper.

Court. Would the Prisoners ask this Evidence any Questions?

Prij. No, my Lord.

The Boatswain Sworn.

Counsel. Pray, Sir, acquaint the Court of what you know, relating to this unhappy Affair?

Boatswain. My Lord, on Saturday the 24th of January last —

A Juryman. I cannot hear one Word, my Lord.

Counsel. Pray raise your Voice.

Boatswain. My Lord on Saturday —

Counsel. I can't hear what you say, Sir.

Court. You must speak so, that the Gentlemen of the Jury may hear you.

Boatswain. My Lord, on Saturday the 24th Day of January last —

Counsel. 'Tis a strange thing, Sir, that you won't speak out, I don't understand one Word you say, you can be loud enough on Board, and make the Ship's Company hear you, at the Main-top Mast Head in a Storm, and you can't speak loud enough here to be heard in Court.

Boatswain. My Lord, Grief overcomes me, to see so worthy and so gallant a Commander, as ever went between Stem and Stem of a Ship, appear in the Manner as the Captain doth.

This occasioned a Talking in Court.

Cryer. Silence, Gentlemen, forbear talking.

Clerk. O Yes: All Persons are commanded to be silent, on Pain of Imprisonment.

Boatswain. My Lord and Gentlemen, on Saturday the 24th of January last, about Nine o'Clock in the Morning, I had Orders from the Captain at the Bar, for whom my Heart bleeds! to direct that the Pinnace might be got ready; and accordingly

I order'd the Boat's Crew to be in Readiness ; and in about Half an Hour the Captain went ashore, and about Seven o'Clock in the Evening, being very dark, one of our Ship's Crew came into my Cabin, which is at the Bulk-head of the Steerage, to acquaint me that the Pinnace was a long Side, with the Captain in it ; upon which I piped all Hands upon Deck, and ordered the Seamen to man the Side, when the Captain order'd a brisk Hand or two to step into the Pinnace, to help his Brother in ; and when the Deceased came into the Ship, he cried out they were going to Murder him ; but the Captain said, *That we need not mind him, because he was Mad, and that he was brought on board on Purpose to prevent his making himself away* ; and after Sir John came on Board, he was conducted into the Cabin ; and as it was my Duty to obey the Command of my Superiors, so I thought it would be imprudent for me to interpose, in any Difference between the Captain and his Brother, otherwise I would have exerted myself, to have prevented the sad Effects, which afterwards happened.

Court. Would the Prisoners ask this Witness any Questions.

Goodere. My Lord, I would ask the Evidence, if he believes I would have been guilty of the Murder of my own Brother.

Boatswain. No, for never did a more worthy Gentleman bear a Commission under his Majesty than Capt. Goodere, nor no Man every carry'd better Command than he did, nor treated those who were under him, with more Humanity and kind Usage than the Captain did.

Counsel. Set this Witness down, and call Bryant.

Charles Bryant. I was one of the Six Men, hired by Captain Goodere, the Prisoner at the Bar, to seize the Deceased, and forcibly to run him aboard the Ruby Man of War, then lying in King Road. We met, by the Prisoner's Directions at the White Hart on College-Green, where we had a handsome Dinner, and we were plac'd in the Balcony that we might be ready to receive the Signal, and obey the Word of Command, without giving the least Suspicion to the People of the House. The Room we dined in, was opposite to Mr. Smith's House, so that we had Notice in a Minute when it was proper to seize Sir John. About Six o'Clock in the Evening the Signal was given, and we left the White Hart, and overtook the Deceased just before he came to College-Green Coffee-house, where I and five others, seiz'd him at the Word and Command of the Prisoner Goodere.

We then immediately rushed on the Deceased,

and dragg'd him along towards the Rope Walk, where was a Gang of twelve more of us, who were there ready to assist us, according to the Prisoner's Instructions. We hurried the Deceased along towards the Hot-Well, where a Boat waited purposely to receive him.

Court. Was the Prisoner Goodere with you all the while you dragg'd the Deceased from College-Green down to the Water Side, and put him aboard the Boat ?

Bryant. Yes ; the Prisoner was with us, directing, aiding, and assisting all the Time, and when the Deceased cry'd out, *Murder ! Murder !* I am Sir John Dinely Goodere ; the Prisoner stopping the Deceased's Mouth with his Cloak, so that the People not knowing his Name, only ask'd, *What was the Matter ?* The Answer the Prisoner and we gave, was, " That he (the Deceased) was a Thief and a Murderer, had made his Escape from the Ship, and that we were going to take him on Board to secure him, in order for his Trial ;" the Prisoner still stopping the Deceased's Mouth to prevent his crying out.

Court. Did you go with the Deceased in the Boat to the Ship ?

Bryant. Yes ; I did, and the Deceased had a little more Liberty than before, and he made Use of it to speak to the Prisoner to this Effect : " Brother, I know you have an Intention to murder me ; I beg that if you are resolved to do it, that you would do it here, and not give yourself the Trouble of taking me down to your Ship." To which the Prisoner replied after this Manner : " No, Brother, I am going to prevent your rotting upon Land ; but, however, would have you make your Peace with God this Night ;" And so without more ado the Prisoner hurried the Deceased on Board his Ship.

Court. Did you go on Board the Ruby Man of War with the Prisoner and the Deceased ?

Bryant. I went on Board and assisted the Prisoner. The Deceased loudly cry'd for Help, and made a great Noise, but the Prisoner took the Precaution to tell the Crew : " That they need not mind his Noise, because he was mad, and that he had brought him on Board on Purpose to prevent his making himself away :" And after we had convey'd him to the Purser's Cabin, we were all order'd, except Mabony and White, by the Prisoner ashore, with Directions to conceal ourselves, and keep out of the Way of Enquiry.

Court. You say, when you left the Ship, Mabony and White staid behind ; was it by the Prisoner

Bryant. *Mabony* and *White* were call'd into the Cabin, and the rest of us were immediately sent ashore : This is all I know of the Matter, 'till was apprehended.

Court. You say, you was hired by the Prisoner to run the Deceased aboard the Ship, what did the Prisoner give you ? How much Money each ?

Bryant. We were treated and had a little Prefent of Money given us, and promised a large Reward after the Business was done, but we have not received it to this Day.

Court. What was the Sum you receiv'd ? And who did you receive it from ?

Bryant. I had a Guinea given me by the Prisoner himself.

Goodere. When did I give you the Guniea ? And was it not for Wages due to you ?

Bryant. It was within a Day or two before we hurried the Deceased aboard : The Prisoner never owed me Wages, for I never was in the Prisoner's Service. I am a Sailor belonging to the *Vernon Schooner*, and an *Irishman* : He, the Prisoner, came, and hired me and five others, and gave each of us a Guinea, to do the Business, which we afterwards did, of hurrying the Deceased aboard the Prisoner's Ship.

Mr. Berry. I was first Lieutenant of the Prisoner's Ship, and, being upon Deck, I saw the Deceased brought aboard, late in the Evening, on the 24th of January last : The Deceased was immediately carried into the Purser's Cabin, and there kept till about Five o'Clock the next Morning.

Court. Was the Prisoners with the Deceased all that Time ?

Berry. The Prisoner *Goodere*, *Mabony* and *White*, were all with the Deceased.

Court. Where was you, that you knew the Prisoners were with the Deceased ?

Berry. I saw the Prisoners and the Deceased together through a Crevice in a Cabin adjoining to the Purser's Cabin.

Court. You say, that the Deceased was kept in the Purser's Cabin, till about Five o'Clock in the Morning ? Did you see what pass'd between the Prisoners and the Deceased after that Time ?

Berry. I, the Cooper of the Ship and his Wife, happened to be in the next Cabin, and, by the Help of an open Crevice, saw the whole Transaction. I heard the Bargain between the Prisoner *Goodere*, and *Mabony* and *White* about the Murder of Sir *John*. Which was, that *Mabony* should have 200*l.*, and *White* 150*l.* What Money the Deceased had in his Pocket they were to divide between

them, together with his Gold Watch : Which Agreement being ended, *Mabony* and *White* went immediately about their bloody Work, the Prisoner *Goodere* standing Centry with his drawn Sword in one Hand and a Pistol in the other, to kill the first Person who should offer any Opposition to what they were about.

Court. What did the Prisoner *Goodere* say at this Time ?

Berry. I heard him swear, That the first Person that should off the least Opposition to what they were about he would kill them.

Court. In what Manner did they murder the Deceased ?

Berry. The first thing they did, they took one of the Deceased's Handkerchiefs out of his Pocket ; *White* held the Deceased's Hands, while *Mabony* put it about his Neck, and then each of them pull'd as hard as he could, in order to strangle the Deceased at once ; but Sir *John* making a desperate Struggle, the Prisoners could not effect it so as to prevent the Deceased's crying out : " Murder, " " Murder ; for Christ's Sake don't kill me ; take " all I have, but save my Life, dear Brother. " What ! must I die ? Help ! Help ! Murder ! " &c.

Court. Where was the Prisoner *Goodere* when the Deceased cry'd out in this Manner ?

Berry. He was standing Centry at the Cabin Door, and upon the Failure of the first Attempt, in murdering the Deceased, he, the Prisoner *Goodere*, ordered *Mabony*, to prevent any further Noise, to take a Cord he had laid ready, *Mabony* then slipp'd off the Handkerchief, and put the Cord about the Deceased's Neck ; the Cord had a Noose at the End ; then *Mabony*, holding the Cord in one Hand, did thrust the other Hand in the Deceased's Throat, and his Knee against his Stomach. In the mean while, *White* held the Deceased's Hands, and took out of his Pocket Eight Guineas and a Gold Watch. Then *White* came directly to the Prisoner *Goodere*, and acquainted him with what was done, and shew'd him his Brother's Watch and Money. The Prisoner then ask'd *Mabony* and *White* whether the Job was quite compleated ? They both answer'd that the Work was compleated. Then the Prisoner gave *Mabony* eight Guineas and a Silver Watch out of his own Pocket, and to *White* he gave his Brother's Gold Watch. The Prisoner gave *Mabony* and *White* what Money he had about him, and bid them get ashore directly that they more easily might make their Escape before Day-Light came on.

Court. Prisoners, Will you ask the Evidence any Questions ?

Prif. Goodere.: Whether I was there, when *Mabony* and *White* murder'd the Deceased?

Berry.: The Prisoner was not in the Cabin, but at the Cabin Door arm'd, standing Centry, to prevent any Opposition that might happen.

Mabony.: Did not the Captain threaten to shoot me if I did not immediately strangle the Deceased?

Berry.: I heard no such Words pass.

Mr. Jones, Cooper of the Ruby, swnrn.

Counsel.: Sir, do you know any thing of the Murder of Sir *John Dinely*?

Jones.: Too much to my Sorrow; for the Captain, whose Behaviour was so well to the Ship's Crew, that none of us but would have gone to the Mouth of a Cannon for his Service.

Counsel.: Well, pray acquaint my Lords and the Jury what you know.

Jones.: My Lord, it happened that my Wife was on Board his Majesty's Ship the *Ruby*, on Sunday the 25th of Jan. last; and there being a great Noise in the Purser's Cabin, on Monday Morning about Six o'Clock, I peeped thro' an open Crevice, and saw the fatal Tragedy, where the Captain stood Centry, with a drawn Sword in one Hand, and a Pistol in the other, to attack the first Person that should oppose him in what they were about; and then the Prisoner *White*, held the Deceased's Hands, whilst *Mabony* took his Handkerchief off, and put it about his Neck, when each pull'd as hard as they could, in order to strangle him at once, but the Deceased making a desperate Struggle, they could not effect their Design so as to prevent his crying out, *Murder! Murder!* for Christ's Sake don't kill me, take all I have, but save my Life, dear Brother: What, must I die! help! help! *Murder*; whereupon *Mabony* to prevent any more Noise, snatch'd up a Cord that was laid ready, and slipping off the Handkerchief, put the Cord about his Neck, which had a Noose at the End, holding the Cord in one Hand, and griping with his other Hand the Deceased's, and thumping with his Knee against the Deceased's Stomach; and *White*, at the same Time held his Hands, and took out of the Deceased's Pocket, eight Guineas or thereabouts, as I believe, and a gold Watch, giving Sir *John*, at the same Time, a Curse, swearing, was that all the Money he had; and after a long Struggling with the Agonies of Death, which according as I can compute it, as to Point of Time, was about forty Minutes, the unfortunate Gentleman gave up the Ghost; and there was abundance of Blood issued out at his Nose and Mouth: So soon as this cruel Act was finished, the Prisoner *White*, went directly to the Captain and shew'd him Sir *John*'s gold Watch,

and the Captain ask'd him, *Whether the Job was done?* upon which *White* cries, Yes, by G——d, noble Captain; upon which, Capt. *Goodere* gave *White* the Deceased's gold Watch, and the eight Guineas, and a Silver Watch out of his own Pocket, and the Captain gave *White* and *Mabony* some Money he had in his Pocket, and order'd them to go on shore directly, that they might the more easily came their Escape.

Goodere.: How can you take upon you to say, that I gave them eight Guineas, when you admit you was not in the Cabin.

Jones.: I vow to God, that I have the greatest Honour and Regard for you; but as I am sworn to speak the Truth, the whole Truth, and nothing but the Truth; so I have strictly confin'd myself to it, and could heartily wish that I could have been excused being here.

Counsel.: Sir, it is your Duty to discover what you know, and not to come here to make Apologies.

Jones.: Sir, I know my Duty and am ready to do it.

Counsel.: Then Sir, pray inform the Jury what happened after the Murder of Sir *John Dinely*.

Jones.: Why Sir, I will tell you; after this happened, I was in a Quondam what to do, least I might do any Thing that would make me be tried by a Court Martial, but at last I took a Resolution to talk to our first Lieutenant, and inform him of the whole Transaction, and accordingly did, at which he seemed confounded, and would hardly give Credit to what I told him, 'till being press'd hard, and assured, that if he would not prevent it, I would make a bold Push myself to get in; at length I got his Approbation, I went down in the *Lazaretto*, and broke open my Chest, and put some things into the Hammock; one of the ~~Soldiers~~ Crew then came upon Deck, and let the Lieutenant know my Stratagem, and finding he approved of it, I went boldly to the Cabin Door, and knocked hard, when the Captain ask'd, Who is there? and I answer'd, 'Tis I, the Cooper, and please your Honour, when Capt. *Goodere* asked me, What I wanted? I told him, that I was robb'd, and that my Chest was broke open, and that I wanted his Honour to do me Justice; upon which Captain *Goodere* opened the Door, and told me that I should have Justice; when immediately I seiz'd the Captain, and our Lieutenant and several of our Hand broke in and helped me; and there to our Horror and Surprise, the dead Body of Sir *John Dinely* lay on the Cabin Deck with Marks of Violence on it. And after we had secured the Captain, our Lieutenant was puzzled

puzzled what to do with his Captain, because he imagined that the Murder was only under the Cognizance and Jurisdiction of the High Court of Admiralty ; and was going to dispatch a Messenger for Orders therein. But about 12 o'Clock on the same Monday, the Water Bailiff of *Bristol*, came on Board and demanded the Body, which at first our Lieutenant refused, but being satisfied that *King Road*, where our Ship was at Anchor, was within the Liberties of the City of *Bristol*, and within the Power and Cognizance of the City Magistrates ; then he not only delivered the Captain into the Water Bailiff's Custody, but immediately ordered a dozen Hands from on Board the Ship as a Guard to conduct him up to *Bristol*.

Anne Jones, the Cooper's Wife, being examined, her Testimony confirmed every thing her Husband related, to the Passage of peeping thro' the Crevice; and the Manner the Captain stood in the Cabin with a drawn Sword in one Hand, and a Pistol in the other, and likewise how *Mabony* and *White* perpetrated the horrid Fact.

Nicholas King, Coroner. It is my Opinion, that the Deceased was murder'd by the violent Means of Strangling.

Mr. Ford. I had *Mabony* under Cure for the Foul Disease for three Weeks, when *Mabony* told me that he had a private Jobb in Hand to do for the Captain, for which he was to have 200*l.* and then he would reward me handsomely for my Trouble.

Capt. Goodere's Defence.

It is a very hard Case, and a very great Hardship on an innocent Man, who because his Brother has been kill'd, ~~murdered~~, right or wrong, be his Murderer. I am innocent of the Fact, and I had no Hand in the Murder laid to my Charge. My Brother was Lunatick, and in a Fit of the Phrenzy strangled himself, which I can prove by my Witnesses.

Sarah Gettings. The Deceased was mad by Turns, and very often attempted to make away with himself.

Anne Gettings, The Deceased has been a long Time subject to strange Whims and Phrenzies, and often talk of shooting, drowning and strangling himself.

Thomas Chamberlain. I have been acquainted with the Deceased some Time, and I never saw any Appearance or Likelihood of Phrenzy in him, and that Day he was hurried aboard the Prisoner's Ship, I dined with Sir John at Mr. Smith's, and I

am certain he was then as well in his Senses as ever
Man could be.

Smith. I have been the Deceased's Attorney several Years, and his intimate Acquaintance, and I never saw the least Appearance of Phrenzy in him.

The Jury went out, and in about Half an Hour brought in their Verdict, Guilty.

On Friday the 27th of March, in the Forenoon, Charles White was brought to the Bar.

J U R O R S.

*Charles Bromadge,
Richard Broadribb,
Joseph Merryweather,
Henry Scott,
John Lilly,
James Jones.*

*Stephen Perks,
Thomas Gregory,
Nicholas Wimbell,
Robert King,
David Simmes,
Edward Rich.*

Clerk of the Arraigns. Charles White. You stand indicted by the Name of *Charles White*, late of his Majesty's Ship the *Ruby*; for that you not having the Fear of God before your Eyes, &c. on the Twenty-fourth Day of *January*, in the Year of our Lord, One Thousand Seven Hundred and Forty, and in the Fourteenth Year of the Reign of our Sovereign Lord G E O R G E the Second, of *Great Britain, France and Ireland*, King, Defender of the Faith, &c. with Force and Arms, against the Peace of our Sovereign Lord the King, feloniously, wickedly, wilfully, and of Malice aforethought, with a wicked and barbarous Intent, aboard the *Ruby Man of War*, then lying in *King Road*, within the Liberty of the City and County of *Bristol*, in and upon the Body of *Sir John Dinely Goodere*, Bart. in the Peace of God, and our Sovereign Lord the King, then and there being, and in Conjunction with divers Ruffians of the Kingdom of *Ireland*, and *Matthew Mahony*, wilfully, wickedly, feloniously, and of Malice aforethought, did make an Assault, and you *Charles White*, in Company with Captain *Goodere* and *Matthew Mahony*, did with both your Hands, and with certain Cloths choak and strangle by the Neck and Throat and Mouth the said *Sir John Dinely Goodere*, Bart. then and there feloniously, wilfully, wickedly, and of Malice aforethought, you the said *Charles White* did murder the said *Sir John Dinely Goodere*, Bart. Of which barbarous and inhuman Usage, the said Sir *John Dinely Goodere* did then die.

Goodere instantly died. And so the Jurors for our Lord the King upon their Oaths do say, that you the said *Charles White*, *Samuel Goodere*, the aforesaid Sir *John Dinely Goodere*, Bart. feloniously, wilfully, wickedly, and of Malice aforethought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity. How say you, *Charles White*, are you guilty of the Indictment, or not guilty?

Prif. Not guilty.

He was a second Time indicted for robbing Sir *John* of eight Guineas, and a gold Watch. To which he pleaded, Not guilty.

Counsel. Gentlemen of the Jury, the Prisoner at the Bar stands indicted for aiding and assisting *Matthew Mahony* in strangling Sir *John Dinely Goodere*, Bart. and for robbing him of eight Guineas and a gold Watch. We shall call the Evidences for the King, and prove both the Indictments, and then you will find the Prisoner guilty.

Berry. I saw the Prisoner *White* hold the Deceased's Hands, while *Mahony* took one of Sir *John's* Handkerchiefs, and put it about the Deceased's Neck, and then *White* and *Mahony* each pull'd as hard as they could in order to strangle him at once. But that not succeeding, *White* held the Deceased's Hands, while *Mahony* took a Cord with a Noose, and put it about Sir *John's* Neck, and strangled him, while *White* the Prisoner, robb'd the Deceased, and took out of his Pocket eight Guineas and a gold Watch. And *White* gave the Deceased a great Damn, swearing,

Was that all the Money he had. I heard the Prisoner say those Words.

Mr. *Jones*, the Cooper, and his Wife, deposed to the same Effect.

The Jury found the Prisoner guilty of both the Indictments.

The next Day the Prisoners were brought to the Bar.

Clerk of the Arraignments. What have you to say why Sentence of Death should not be pass'd upon you according to Law.

Prisoners. We humbly submit to the Judgment of this Honourable Court.

Judge. You the Prisoners at the Bar, *Samuel Goodere*, *Matthew Mahony* and *Charles White*, have been indicted for a horrid, cruel, and unnatural Murder on the one Side, and after fair and impartial Trials on the other, your Country have found you severally Guilty of the Charge, which is the Murder of Sir *John Dinely Goodere*, Bart. A Crime to which all Nations have annex'd the greatest Punishments. The Laws of *England* have made it Death. I would have you all make a proper Use of that short Time which the Law allows you for making your Peace with God, whom you have so highly offended. I have nothing more to say, than to pronounce that dreadful Sentence, which the Law requires and commands me to do; which is,

That you all be convey'd from this Place to that from whence ye came, and from thence to the Place of your Execution, and there to be hang'd by your Necks, until ye are dead! — And the Lord have Mercy on your Souls.

F · I · N · I · S ·

Ex. GmB.

5 / 16 / 02